

ANDOVER BOARD OF HEALTH
Workshop Session Minutes
November 24, 2008, 6 P.M.
1st Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Margaret N. Kruse, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Martin stated that this was a special workshop session to discuss Health enforcement issues in general and the septic system failure at 2 Carriage Hill Road specifically.

I. Methods of Enforcement

- The Board discussed the Flow Chart Mr. Carbone prepared. The chart showed the various ways a complaint can be resolved. After an Inspector determines there is a violation, an ORDER is issued. Sometimes there are requests to Appeal the ORDER, which can lead to a Hearing before the Board of Health. Sometimes compliance is achieved, but when there is non-compliance the Board can seek enforcement action.

II. Options for Enforcement

- Mr. Carbone explained that the Housing Code gives the specifics on when you can condemn a home. Ms. Martin brought up other cases where a septic system was in failure resulting in the determination that a new system had to be designed or the home would be condemned, and stated that the case with 2 Carriage Hill Road should not be any different. The end result is that you need a sanitary home for the occupants, and the Board of Health has the right to pursue prosecution in order to achieve that goal. Mr. Carbone explained that the Board could order a Condemnation Hearing, but felt that enforcement in the Court System would be the best way to demand compliance from this particular homeowner. To go to District Court without counsel would not be recommended. Sometimes a District Attorney is assigned to the case, but when it comes time for prosecution, legal counsel would be necessary.

Mr. Carbone explained that another option the Board had was to file a Criminal Complaint in Housing Court. In Housing Court there would be no legal counsel; Mr. Carbone would have to prosecute the case. Mr. Carbone could have the Application and paperwork ready to file next week and would hope to have a Hearing date with the Clerk before Christmas. The Board decided that filing a criminal Complaint in Housing Court would be the best way to proceed.

III. Decision

Motion by Ms. Martin, to file an Application for Criminal Complaint with the Housing Court, seconded by Ms. Kruse for discussion.

Mr. Carbone explained that he would file the Application for Criminal Complaint with the Housing Court which then gets validated by the Clerk. If the Clerk determines that the case has merit, then the Complaint will be issued.

Ms. Martin conducted a roll call vote with the following results: Ms. Martin, yes, Dr. Miller, yes, Ms. Kruse, yes. All in favor.

IV. Educational Opportunities

The Board discussed the need to prepare a packet for the Members of the Board of Selectmen in order for them to understand that Public Health does not only concern a large amount of people, but concerns individuals as well. Mr. Carbone gathered together several educational items that he had assembled in the past concerning Board of Health issues including posters, Massachusetts Association of Health Boards' (MAHB) documentation as well as a PowerPoint presentation explaining the duties of local Boards of Health. The Board of Selectmen needs to understand that the Board of Health gets its power from State Law, not Town Bylaws. The Board of Health instructed Mr. Carbone to prepare the packet, and Ms. Martin decided to draft a letter to the Board of Selectmen to go along with the packet. Ms. Martin will e-mail a draft letter to the Board of Health Members, and they will discuss the letter at the next scheduled Board of Health Meeting on Monday, December 8, 2008. At that time any necessary changes can be made and then the letter can be updated and signed by the Board of Health.

V. Adjournment

Motion by Dr. Miller, seconded by Ms. Martin to adjourn at 6:40 p.m. Unanimous approval.